

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2018-364-WS

IN RE: Stephen and Beverly Noller and Michael) and Nancy Halwig, Complainants/) Petitioners v. Daufuskie Island Utility) Company, Incorporated, Defendant/) Respondent) _____)	DIUC RESPONSES TO SC OFFICE OF REG. STAFF'S FIRST AND CONTINUING AUDIT REQUEST FOR RECORDS AND INFORMATION
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TO: ANDREW BATEMAN, ESQ.
 SC. OFFICE OF REGULATORY STAFF

Daufuskie Island Utility Company ("DIUC") hereby responds to the South Carolina Office of Regulatory Staff's First and Continuing Audit Information Request for Records and Information, dated January 22, 2019, as follows.

1. Produce an electronic copy of all responses provided by DIUC in this proceeding to all discovery issued by other parties.

RESPONSE:

DIUC will produce to ORS an electronic copy of all responses provided by DIUC in this proceeding to discovery requests issued by other parties.

2. On page two (2) of the DIUC Answer, filed with the Commission on 12/17/18, DIUC represented that, "DIUC consulted with ORS and understood that since its easement had washed into the sea, DIUC was not obligated to purchase additional easements to install for a third time infrastructure to serve these two customers."
 - a. Provide the date, time, attendees of the call and/or meeting in which DIUC received the guidance from ORS that formed DIUC's position that DIUC was not obligated to "purchase additional easements to install for a third time infrastructure to serve" the Halwig and Noller premises.
 - b. Provide all supporting documents to detail the meeting/call with ORS including but not limited to meeting/call notes and correspondence.

RESPONSE:

DIUC objects to this Request because:

1. The Request is overly broad in time in scope, unduly burdensome, and not proportional to the needs of the case.
2. The resources of the parties with respect to the requested information are similar and to force the expense associated with the proposed discovery on DIUC improperly imposes an undue burden on DIUC.
3. The Request refers to DIUC's Answer and seeks information about "guidance from ORS," although that is not the statement included in DIUC's Answer. Therefore, the Request is premised upon a mischaracterization and misstatement of information provided by DIUC in its Answer. To respond DIUC must accept this mischaracterization, which it does not.

Subject to these objections, DIUC states:

Following Hurricane Matthew in October 2016, DIUC consulted with staff at ORS regarding DIUC's provision of water and sewer services to the Complainants' properties. Michael Guastella of Guastella Associates, DIUC's manager, participated in multiple telephone calls and exchanged emails with members of ORS staff. Of course, not all calls were specifically documented by DIUC and not all conversations between DIUC and ORS on this matter were followed by emails referencing the same. Select communications are discussed below and copies of relevant emails are herewith produced bearing Bates Numbers DIUC 0001 to DIUC 0091.

DIUC and ORS approached the situation cooperatively and freely exchanged information in an effort to address the unique circumstances involved.

For example, in a November 14, 2016, email from Mike Guastella to ORS's Chad Campbell with copy to ORS staff members Dawn Hipp, Sarah Johnson, April Sharpe, and Willie Morgan, DIUC explained the circumstances and its position:

Due to the hurricane, the main break was caused by a wash out of the road and surrounding immediate area under which the main was located. Unless the road and surrounding area is restored and adequately protected from any future erosion, it would not be possible to reinstall the main at that location. Clearly, the utility is not responsible for road and land recovery under the circumstances. We have been looking into other means of access to the Halwig property, but do not yet know the options in term of ownership of other property or availability of rights of way, and of equal significance who would pay for the cost. It seems that it is Mr. Halwig's responsibility to provide reasonable access, which may require a restoration effort by appropriate municipal authorities. In the meantime, we are also trying to find answers to these questions. Attached for your information are notices of restrictions regarding occupying the properties posted on Mr. Halwig's and his neighbor's properties. This is a more

complex problem than simply repairing or replacing a small section of main. We have had communications with Mr. Halwig explaining the circumstances and an inability to provide an estimate of restoration. It is still impossible to provide specific dates when the road and ground restoration that may be necessary, and which would not be the utility's responsibility, must be completed before we can reinstall a main - or find other means of access to Mr. Halwig's property.

DIUC's position was based upon the conclusion that it would not have been a prudent decision for DIUC to voluntarily install lines to these two rapidly eroding properties and then attempt in its next rate proceeding to make all the other DIUC ratepayers absorb the cost.

As noted by the additional November 2016 emails attached, Michael Guastella communicated further with Chad Campbell and Willie Morgan regarding the matter. At no time in any of the telephone conversations or email exchanges did any ORS staff member state or suggest that DIUC was obligated to purchase additional easements to install for a third time infrastructure to serve the Complainants.

On December 1, 2016, ORS staff members Dawn Hipp, Willie Morgan, and Chad Campbell joined Mr. Guastella on a conference call to discuss the situation impacting the Halwigs and Nollers. Ms. Hipp encouraged those on the call to "think outside the box" in an effort to be creative in finding a solution that would work for the property owners without subjecting DIUC or its ratepayers to excessive costs. During that call ORS staff encouraged DIUC to perhaps suggest a contractor and/or engineering firm to potentially assist the Halwigs and Nollers. In Mr. Campbell's December 1, 2016, email summarizing the call earlier that day, Mr. Campbell did not in any way indicate DIUC was obligated to purchase additional easements to install for a third time infrastructure to serve these two customers.

In its December 2, 2016, letter responding to Dr. Halwig's 2016 complaint, ORS did not indicate in any way that DIUC was obligated to purchase additional easements to install for a third time infrastructure to serve the Complainants. That letter was signed by Mr. Campbell and indicates copies were provided to Dawn Hipp, Sarah Johnson, Willie Morgan, and April Sharpe.

On December 14, 2016, the South Carolina Supreme Court heard oral arguments in DIUC's appeal of its most recent rate case order. Michael Guastella and Dawn Hipp were both present. After the oral argument Guastella and Hipp discussed the Halwig-Noller situation. Mr. Guastella updated Ms. Hipp regarding DIUC's efforts and Mr. Guastella's scheduled meeting the following day with OCRM regarding the Halwig and Noller properties. Ms. Hipp indicated DIUC was more than meeting all its obligations in the situation.

DIUC also copied Mr. Campbell on correspondence dated January 27, 2017, in which DIUC provided information to Dr. Halwig. Mr. Guastella provided that information

to Dr. Halwig in writing because ORS requested he do so during telephone call(s) regarding the matter.

At least one of these telephone calls occurred on January 23, 2017, with Mr. Guastella, Mr. Campbell, and Mr. Morgan. During that call the gentlemen discussed the document provided by Mr. Halwig and labelled “B-1”. Mr. Guastella explained that DIUC did not prepare that document and that DIUC could not agree with it because it stated that DIUC would be “responsible for obtaining the necessary permits, the necessary surveys and the necessary paperwork to create the new utility easement. They will also be responsible for all construction costs and will return the construction area across the course to its prior state.” Guastella again made clear DIUC’s position that it could not agree to subject its other ratepayers to covering the costs of a third installation to serve the Complainants, especially given the ongoing and rapid erosion at the properties. The January 23, 2017, call is also referenced in an email from Mr. Campbell to Mr. Guastella dated January 24, 2017. During this call Mr. Campbell nor Mr. Morgan ever suggested to DIUC that DIUC was obligated to purchase additional easements to install for a third time infrastructure to serve these two customers. Likewise, the follow-up email does not suggest in any way that DIUC was obligated to purchase additional easements to install for a third time infrastructure to serve these two customers.

Via email dated March 21, 2017, Mr. Guastella reported to Mr. Campbell that the Halwigs and Nollers were proceeding with installation of additional equipment in a new easement, at the landowners’ cost, as previously discussed between Messrs. Guastella, Campbell, and Morgan:

A quick update on the Driftwood/Halwig situation. I heard from Thomas & Hutton again and it sounds as though they will be working with both residents (Halwig & Noller) to provide the engineering reports for new customer service lines. They will be inspecting the area possibly as soon as this week. Our Operators will be with the engineer to answer any questions and show them our facilities. I will update you again when I have new information.

Mr. Campbell responded, “Thanks for the update Mike.” Like the previous correspondence from ORS to Mr. Guastella, this email from Mr. Campbell does not indicate in any way that ORS disagreed with the construction as it was proceeding, at the landowners’ expense.

This summary has been provided in an effort to be cooperative while preserving objections.

Generally, and based upon its objections, DIUC reserves the right to present additional facts and documents in support of its position.

3. On page six (6) of the DIUC Answer, filed with the Commission on 12/17/18, DIUC represented that, "DIUC sought input from ORS. ORS did not take the position that DIUC was obligated to incur these expenses and ORS did not agree DIUC should pass these costs on to its other ratepayers."
 - a. Provide the date, time, attendees of the call and/or meeting in which DIUC represented that ORS did not agree that DIUC should pass these costs on to its ratepayers.
 - b. Provide all supporting documents to detail the meeting/call with ORS including but not limited to meeting/call notes and correspondence.

RESPONSE:

See Response to Request #2.

4. On page seven (7) of the DIUC Answer, filed with the Commission on 12/17/18, DIUC represented that, "DIUC provided ORS a copy of the negotiated [Customer Service Agreement] and discussed with ORS counsel that the CSA did not require any further ORS or Commission approval."
 - a. Provide the date, time, attendees of the call and/or meeting in which DIUC discussed with ORS counsel that the CSA did not require any further ORS or Commission approval."
 - b. Provide all supporting documents to detail the meeting/call with ORS including but not limited to meeting/call notes and correspondence.

RESPONSE:

As indicated in the January 31, 2018, email from Michael Guastella to Thomas & Hutton engineer Fred Sororian, DIUC provided ORS staff members Chad Campbell and Willie Morgan with a copy of the Customer Service Agreement ("CSA"). Mr. Guastella received no response to this email from Mr. Campbell or Mr. Morgan.

In early September of 2018, Mr. Guastella spoke by telephone with Mr. Morgan regarding the CSA and whether or not any further ORS or Commission approval of the CSA was required. Mr. Guastella was concerned that the Complainants' new threats not to pay the CIAC taxes per the CSA could arguably create a potential impact on DIUC triggering the approval requirements of SC Regs. § 103-743 and § 103-541. Mr. Guastella asked for guidance and Mr. Morgan advised that Commission approval of the CSA was not necessary.

5. On page nine (9) of the DIUC Answer, filed with the Commission on 12/17/18, DIUC represented that, "DIUC consulted with ORS after Hurricane Matthew and DIUC consulted with ORS regarding the Customer Service Agreement."
 - a. Provide the date, time, attendees of the call and/or meeting in which DIUC consulted with ORS after Hurricane Matthew and DIUC consulted with ORS regarding the Customer Service Agreement.

- b. Provide all supporting documents to detail the meeting/call with ORS including but not limited to meeting/call notes and correspondence.

RESPONSE:

See Response Requests #2 and #4.

On September 25, 2018, Chad Campbell of ORS emailed Mr. Guastella seeking a response to an inquiry received by ORS from Attorney Jack Smith on behalf of the Halwigs and Nollers. Mr. Campbell described the inquiry as “regarding costs associated with restoral of water and sewer services to their properties on Driftwood Cottage Lane, Daufuskie Island, S.C.”

Mr. Campbell requested that DIUC “provide a response to the ORS on or before October 2, 2018. In your response, please advise what responsibilities have been conveyed to the Halwig's and Noller's with regard to the restoral of water and sewer services to their properties.”

Via email dated October 1, 2018, Mr. Guastella responded by email with attachments:

I've attached a copy of the executed ‘Customer Service Agreement’, that was sent on 1.31.18, in which you and Willie were both copied. Also included is the email correspondence between myself and Jack Smith leading up to the customers’ agreeing to the terms of the ‘Customer Service Agreement’.

Mr. Campbell and Mr. Guastella discussed the CSA via telephone on October 3, 2018. Mr. Campbell then requested by email that same day that Mr. Guastella provide his previous “response to the ORS on Company letterhead.” Mr Gusatella provided that response on October 4, 2018.

Respectfully submitted,

/s/ Thomas P. Gressette, Jr., Esq.


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January 29, 2019
Charleston, SC

VERIFICATION


I, Michael J. Guastella, Vice President of Operations for Guastella Associates, the manager of Daufuskie Island Utility Company, Inc., hereby affirm that the foregoing Responses to the South Carolina Office of Regulatory Staff's First and Continuing Audit Information Request for Records and Information are true and accurate to the best of my knowledge based on my understanding of the questions.



Michael J. Guastella

SWORN to before me this

29 day of January, 2019.



Signature of Notary

Notary Public for State of New Mexico

My Commission Expires: 01/18/2021

